

## § 102.77

## 29 CFR Ch. I (7–1–12 Edition)

the petitioner is an employer, that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of the employees in the unit claimed to be appropriate.

### **§ 102.77 Investigation of petition by regional director; directed election.**

(a) Where a petition has been filed pursuant to § 102.76 the regional director shall make an investigation of the matters and allegations set forth therein. Any party, and any individual or labor organization purporting to act as representative of the employees involved and any labor organization on whose behalf picketing has been conducted as described in section 8(b)(7)(C) of the Act may present documentary and other evidence relating to the matters and allegations set forth in the petition.

(b) If after the investigation of such petition or any petition filed under subpart C of this part, and after the investigation of the charge filed pursuant to § 102.73, it appears to the regional director that an expedited election under section 8(b)(7)(C) of the Act is warranted, and that the policies of the Act would be effectuated thereby, he shall forthwith proceed to conduct an election by secret ballot of the employees in an appropriate unit, or make other disposition of the matter: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, he may issue and cause to be served on the parties, individuals, and labor organizations involved a notice of hearing before a hearing officer at a time and place fixed therein. In this event, the method of conducting the hearing and the procedure following, including transfer of the case to the Board, shall be governed insofar as applicable by §§ 102.63 through 102.69 inclusive.

[24 FR 9102, Nov. 7, 1959, as amended at 26 FR 3892, May 4, 1961; 76 FR 80188, Dec. 22, 2011]

### **§ 102.78 Election procedure; method of conducting balloting; postballoting procedure.**

If no agreement such as that provided in § 102.79 has been made, the regional director shall fix the time and

place of the election, eligibility requirements for voting, and other arrangements for the balloting. The method of conducting the balloting and the postballoting procedure shall be governed, insofar as applicable, by the provisions of §§ 102.69 and 102.70 except that the labor organization on whose behalf picketing has been conducted may not have its name removed from the ballot without the consent of the regional director and except that the regional director's rulings on any objections or challenged ballots shall be final unless the Board grants special permission to appeal from the regional director's rulings. Any request for such permission shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The party requesting review shall immediately serve a copy thereof on each other party. A request for review shall not operate as a stay of the regional director's rulings unless so ordered by the Board.

### **§ 102.79 Consent-election agreements.**

Where a petition has been duly filed, the parties involved may, subject to the approval of the regional director, enter into an agreement governing the method of conducting the election as provided for in § 102.62(a), insofar as applicable.

### **§ 102.80 Dismissal of petition; refusal to process petition under expedited procedure.**

(a) If, after a petition has been filed pursuant to the provisions of § 102.76, and prior to the close of the hearing, it shall appear to the regional director that further proceedings in respect thereto in accordance with the provisions of § 102.77 are not warranted, he may dismiss the petition by administrative action, and the action of the regional director shall be final, subject to a prompt appeal to the Board on special permission which may be granted by the Board. Upon such appeal the provisions of § 102.71 shall govern insofar as applicable. Such appeal shall not operate as a stay unless specifically ordered by the Board.

(b) If it shall appear to the regional director that an expedited election is not warranted but that proceedings